In the High Court of Judicature at Madras

Dated: 04.12.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Writ Appeal No.1894 of 2001

1. S.Selvakani
2. Ganesan.S.
3. Gankesan
4. S.Karthikesan
5. S.Kalakesan
6. S.Kalaimathi
7. S.Kasimathi
8. S.Kavithamani ..Appellants/Respondents 3

..vs..

1. Savarimuthu

2. The District Revenue Officer,
   Tirunelveli. ..Respondents/Petitioner and 2nd Respondent

Writ Appeal filed under Clause XV of the Letters Patent against the order dated 28.06.2001 passed in W.P.No.5485 of 1983 presented to this Court under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in Roc/E2/1743/81 dated 7.6.1983 on the file of the District Revenue Officer, Tirunelveli, peruse the same.

For Appellants : Mrs.Chitra Sampath

For Respondents : Mr.R.Kannan for R1
Mrs.Bhavani Subbarayan G.A.for R2

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JUDGMENT

P.SATHASIVAM, J.,

The above Writ Appeal is directed against the order of the learned single Judge dated 28.06.2001 made in W.P.No.5485 of 1983, in and by which, the learned Judge, after finding that in view of the decrees by competent Civil Courts, which became final, the

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District Revenue Officer, Tirunelveli, has no jurisdiction to pass the Proceedings dated 07.06.1983, quashed the same and allowed the writ petition.

2. Heard Mrs.Chitra Sampath, learned counsel for the appellant, Mr.R.Kannan, learned counsel for the 1st respondent and Mrs.Bhavani Subbarayan, learned Government Advocate for the 2nd respondent.

3. The only point that arises for consideration in this appeal is whether the proceeding of the District Revenue Officer, Tirunelveli dated 07.06.1983 is valid in law ? and the learned single Judge is right in quashing the same and allowing the writ petition ?

4. The appellants are respondents 3 to 10 in the writ petition. For convenience, let us describe the parties as arrayed in the writ petition.

5. The brief facts are as follows: According to the writ petitioner-Savarimuthu, the 1st respondent P.Suyambukesan owned lands in Survey Nos.891/1, 891/2, 892/1 of an extent of 97 cents, 48 cents and 44 cents respectively amounting to in all 1.8 acres in Vijayanarayanam Village, Nanguneri Taluk. The 1st respondent took a Governemnt loan, ultimately, he committed default in repayment. Therefore, the said properties were brought for sale in public auction by the Tahsildar, by invoking powers under the Tamil Nadu Revenue Recovery Act, 1864. The public auction was conducted on 29.10.1974, in which the writ petitioner became the highest bidder, the bid amount being Rs.7,035/- and the sale was confirmed by the District Revenue Officer, Tirunelveli, by his Proceedings dated 21.06.1975. It is also the claim of the petitioner that he improved the land by spending considerable amount. It is further stated that even after the sale of the land, the 1st respondent continued to interfere with the possession and enjoyment of the petitioner. Hence, he filed a civil suit in O.S.No.172 of 1976 against the 1st respondent in the court of District Munsif, Tirunelveli for a declaration and injunction.

6. By an order dated 16.02.1977, the said suit was decreed as prayed for. No appeal had been preferred. The 1st respondent set up his sons and filed O.S.No.9 of 1977 in the Court of Subordinate Judge, Tirunelveli, for partition and separate possession, wherein the lands purchased by the writ petitioner in public auction held on 29.10.1974 were also included as the third schedule of the suit properties. The learned subordinate Judge, after trial, negatived their claim in so far as it related to the third schedule properties belonging to the writ petitioner. The said judgment and decree had also become final.

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7. It is the further case of the petitioner that based on the representation made to One Man Commission headed by Justice W.S.Krishnasamy Naidu, the 2nd respondent, District Revenue Officer, Tirunelveli, issued a show cause notice to the petitioner as to why the sale held in his favour cannot be set aside. In spite of the objection of the petitioner, the 2nd respondent, in his Proceedings dated 07.06.1983, cancelled and set aside the revenue sale held on 29.10.1974. Questioning the said order, the petitioner filed the above writ petition.

8. During the pendency of the said writ petition, the 1st respondent died and his legal representatives have been impleaded as respondents 3 to 10.

9. Mrs.Chitra Sampath, learned counsel for the appellants vehemently contended that in view of the finding of the One Man Commission and in the light of certain irregularities in conducting the sale, the District Revenue Officer, Tirunelveli, is perfectly right in setting aside the sale and the learned Judge is not correct in interfering with the said order, Mr.R.Kannan, learned counsel for the 1st respondent and the learned Government Advocate for the 2nd respondent supported the order of the learned Judge.

10. It is not in dispute that only after due publicity, the auction was conducted, in which, the petitioner participated, and that, after accepting the bid of the petitioner, which was the highest, the sale was confirmed by the District Revenue Officer, by his Proceedings dated 21.06.1975 and a Sale Certificate had also been issued to the writ petitioner, who took possession of the lands. Since even after the sale, the 1st respondent (since deceased) attempted to interfere with his possession, the petitioner filed O.S.No.172 of 1976 before the District Munsif Court, Tirunelveli for declaration and injunction and the suit was decreed as prayed for. It is also not in dispute that the decree became final since no appeal has been filed.

11. It is also relevant to point out that the 1st respondent along with his sons filed the suit in O.S.No.9 of 1977 before the Subordinate Judge, Tirunelveli, for partition and separate possession including the very same property as subject matter of the suit property. It is also not in dispute that the Sub court dismissed the partition suit in respect of the properties purchased by the writ petitioner through public auction. As pointed out earlier, the said decree had also become final.

12. In view of the above admitted factual position and also of the fact that the judgments and decrees by competent Civil courts had become final, as rightly observed by the learned Judge, the

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District Revenue Officer cannot nullify the decrees passed by the civil courts and set aside the sale. As rightly pointed out by the learned Judge, it is not in dispute that the impugned order came to be passed by the District Revenue Officer, Tirunelveli, subsequent to the judgments and decrees referred to above. In such circumstances, we are unable to accept the claim made by the appellants; on the other hand, we are in entire agreement with the conclusion arrived at by the learned Judge.

13. Under these circumstances, we do not find any ground for interference in the order of the learned single Judge. Consequently, the writ appeal fails and the same is dismissed. No costs.

gl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The District Revenue Officer,
Tirunelveli.

1 cc to Mr.R.Kannan, Advocate, SR.59659
1 cc to Governemnt Pleader, SR.59659
1 cc to Mrs.Chitra Sampath, Advocate, SR.59580

akm (co)

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